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4 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 DANNY TABB,

7 Plaintiff,

8 v.

9 NAPHCARE, et. al.,

10 Defendants.

Case No. C21-5541 LK-TLF

ORDER DENYING PLAINTIFF'S  
MOTIONS FOR APPOINTMENT  
OF COUNSEL

11 This matter comes before the Court on plaintiff's motions for appointment of  
12 counsel. Dkt. 20, Dkt. 25. For the reasons discussed below, plaintiff's motions are  
13 denied without prejudice.

14 A plaintiff has no constitutional right to appointed counsel in a § 1983 action.  
15 *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see also United States v.*  
16 *\$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) ("[a]ppointment of  
17 counsel under this section is discretionary, not mandatory."). In "exceptional  
18 circumstances," a district court may appoint counsel for indigent civil litigants pursuant  
19 to 28 U.S.C. § 1915(e)(1). *Rand v. Roland*, 113 F.3d 1520, 1525 (9th Cir. 1997),  
20 *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998).

21 The Court must evaluate both "the likelihood of success on the merits and the  
22 ability of the petitioner to articulate his claims *pro se* in light of the complexity of the  
23 legal issues involved," to make an assessment whether exceptional circumstances  
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1 show that counsel should be appointed. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir.  
2 1991) (citations omitted). A plaintiff must plead facts that show he has an insufficient  
3 grasp of his case or the legal issues involved, and an inadequate ability to articulate the  
4 factual basis of his claims. *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101,  
5 1103 (9th Cir. 2004). Although a *pro se* litigant may be better served with the assistance  
6 of counsel, that is not the test. *Rand*, 113 F.3d at 1525.

7 Plaintiff has not shown that his claims are particularly complex or that he is  
8 unable to articulate the factual basis of his claims *pro se*. Plaintiff states that he suffers  
9 from a visual impairment which limits his ability to read and write to short periods of  
10 time. Dkt. 25. Plaintiff has not made a showing that his reported impairment prevents  
11 him from adequately litigating this action. Additionally, the plaintiff's complaint  
12 demonstrates that plaintiff has an adequate understanding of his case and the legal  
13 issues involved as well as sufficient ability to articulate the factual basis of the claims.

14 Plaintiff states that he has made five unsuccessful attempts to retain private  
15 counsel to litigate this action. Dkt. 25. However, the inability to obtain counsel due to  
16 cost, or lack of availability, is not an exceptional circumstance. *See, Wood v.*  
17 *Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1998).

18 Further, plaintiff contends that he has limited legal knowledge and limited access  
19 to the law library. Dkt. 25. Legal knowledge deficiencies or limited access to a law  
20 library would not constitute an exceptional circumstance – *pro se* litigants would almost  
21 invariably encounter these difficulties. *See, Wood*, 900 F.2d at 1335 (noting that  
22 plaintiff's alleged limitations were "difficulties which any litigant would have in  
23 proceeding *pro se*").

1 This case does not, at this time, present extraordinary circumstances required for  
2 the appointment of counsel. The Court therefore denies plaintiff's motions for  
3 appointment of counsel (Dkt. 20, Dkt. 25) without prejudice. Plaintiff will be allowed to  
4 renew this motion if, at a later time in the proceedings, exceptional circumstances would  
5 require appointment of counsel.

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7 Dated this 10th day of May, 2022.

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10 Theresa L. Fricke  
11 United States Magistrate Judge  
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